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before a justice, who shall try the case, and that, if judgment be rendered against the offender, it shall be for the forfeitures and costs, and if he does not satisfy the judgment the justice shall commit him to jail for one month, unless satisfaction be made. Section 2070b, cl. 8, p. 1044, provides that all penalties imposed or collected under the provisions of the chapter of which the above sections are a part shall be paid to the commonwealth. Section 3879, p. 2061, declares offenses which are not felonies to be misdemeanors. Held, that sections 2071 and 2073 create a criminal offense of the misdemeanor class and prescribe a criminal proceeding for their violation, and consequently an appeal from a judgment of conviction lies to the circuit court under Code 1904, pp. 2152, 2154, §§ 4106, 4107, providing for appeals to the circuit court from judgments of conviction in criminal cases before justices, although the fine imposed is less than \$10, so that no appeal would lie to the circuit court under section 2947, p. 1562, providing for appeals in civil cases.

ROWLAND et al. *v.* ROWLAND et al.

Dec. 7, 1905.

[52 S. E. 366.]

1. Appeal—Parties Entitled to Appeal.—A party has no right to appeal from a decree, the reversal of which would give him nothing more than that which he had received thereunder.

[Ed. Note.—For cases in point, see vol. 2, Cent. Dig. Appeal and Error, § 947.]

2. Wills—Suit to Establish—Issues.—Code 1887, § 2544 [Va. Code 1904, p. 1297], provides for the filing of a bill in equity to impeach or establish a will, on which bill a jury shall be ordered to ascertain whether any, and, if any, how much, of what was offered for probate, is the will of the decedent. Held, that where a bill stated a case which, if true, avoided the whole will, and the answer accepted the issue, an issue framed for a finding for or against the will in its entirety was not erroneous, on the theory that under the statute it should have been so phrased as to permit a finding sustaining a part of the instrument.

NORFOLK & W. RY. CO. *v.* COFFEY.

Dec. 7, 1905.

[52 S. E. 367.]

On petition for rehearing. Order reversing and remanding the cause set aside, and judgment of circuit court affirmed.

For former decision, see 51 S. E. 729.